

Before the
Federal Communications Commission

In the Matter of)	
A Petition For Declaratory Ruling)	CGB Docket No. 03-123
Regarding Video Relay Service (VRS))	
Provider Employment Contracts With)	
VRS Communications Assistants		

**EX PARTE LATE COMMENT OF THE
AMERICAN ASSOCIATION OF PEOPLE WITH DISABILITIES**

The American Association of People with Disabilities (AAPD)¹ offers a few brief ex parte late comments in regard to this petition for a declaratory ruling seeking a prohibition against employment clauses that do not allow sign language interpreters working for VRS providers to work for competitors for one year after their employment contracts expire.² AAPD only just recently learned of this matter; we hope the Commission will nevertheless accept our late filed comments

From AAPD's point of view it seems that a provider seeking such a prohibition is attempting to introduce a labor practice that would hurt the national labor marketplace and we see little justification for it. It is not as if Video Relay Service Communications Assistants ("VRS CAs") have

¹The American Association of People with Disabilities (AAPD) is the largest national nonprofit cross-disability member organization in the United States, dedicated to ensuring economic self-sufficiency and political empowerment for the more than 51 million Americans with disabilities. AAPD works in coalition with other disability organizations for the full implementation and enforcement of disability nondiscrimination laws, particularly the Americans with Disabilities Act (ADA) of 1990 and the Rehabilitation Act of 1973, as well as other statutes, such as the disability accessibility mandates in the Communications Act.

² Released: 08/03/2007, "Consumer & Governmental Affairs Bureau seeks comment on petition for declaratory ruling regarding Video Relay Service (VRS) provider employment contracts with VRS communications assistants (CAs)." (DA No. 07-3512). (Dkt. No. 03-123).

specialized technology knowledge and skills that belong solely to one employer. While we note that the Communications Assistants at issue here are also “qualified interpreters” and their skill sets may in many cases be greater than other kinds of Communications Assistants, requiring them to not work for other VRS providers or competitors for a year essentially takes out of the marketplace persons with skills needed to deliver video relay service.

We note further that video relay service is often the most preferred form of telecommunications relay service for persons who are sign language users – witness its rapid growth! -- and comes the closest to “functional equivalence” in telephony. Video relay service is therefore in high demand by consumers and there is a clear and pressing need for VRS CAs.

We are also aware that many VRS CAs may work from their homes and that the calls they relay may or may not originate from callers in the same state as the VRS CA or the VRS provider. We therefore have concluded that the general marketplace for VRS interpreters is a national labor market since a specific location for the VRS CA is not essential to service delivery.

While we understand and respect greatly the need for “do not disclose” agreements about company secrets and discrete business process information, the general skill set for Communications Assistants is transferable and the more specialized skills for VRS CAs are just as transferable and in demand in the marketplace. We assert also that VRS providers who wish to retain CAs that they have recruited, trained and otherwise invested in are in the same situation as all other employers and must compete using pay, incentives, conditions and benefits the same way other employers must in order to retain skilled personnel.

We urge a full fact-finding, particularly with regard to the labor force effects on the TRS funds in regard to the type of prohibition under concern here.

AAPD thanks the Commission for the opportunity to submit an ex parte comment on this matter and apologizes for our late filing.

Respectfully submitted,

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